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LAW OFFICES

KELLER AND HECKMAN

1001 G STREET, N.W.
SUITE 500 WEST
WASHINGTON, D.C. 20001
TELEPHONE (202) 434-4100
TELEX 49 95551 "KELMAN"
FACSIMILE (202) 434-4646

BOULEVARD LOUIS SCHMIDT 87
B-1040 BRUSSELS
TELEPHONE 32(2) 732 52 80
FACSIMILE 32(2) 732 53 92

JOSEPH E. KELLER (1907-1994)
JEROME H. HECKMAN
WILLIAM H. BORGHESE, JR.
MALCOLM D. MACARTHUR
WAYNE V. BLACK
TERRENCE D. JONES
MARTIN W. BERCOVICI
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*NOT ADMITTED IN D.C.
*RESIDENT BRUSSELS

SCIENTIFIC STAFF

DANIEL S. DIXLER, Ph. D.
CHARLES V. BREDER, Ph. D.
ROBERT A. MATHEWS, Ph. D., D.A.B.T.
JOHN P. MODDERMAN, Ph. D.
HOLLY HUTMIRE FOLEY
JUSTIN C. POWELL, Ph. D.
JANETTE HOUK, Ph. D.
LESTER BORODINSKY, Ph. D.
THOMAS C. BROWN*
MICHAEL T. FLOOD, Ph. D.
ANDREW P. JOVANOVIK, Ph. D.

WRITER'S DIRECT DIAL NUMBER

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(202) 434-4284

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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Re: PR Docket No. 93-144, PP Docket No. 93-253

Dear Mr. Caton:

Pursuant to Section 1.1206(a)(2) of the Commission's rules, this is to notify you that Joseph M. Sandri, Jr., representing U.S. Sugar, met this afternoon with the following Wireless Telecommunications Bureau staff: Dan Phythyon, Associate Bureau Chief; and D'Wanda Speight, Deputy Acting Chief of the Commercial Wireless Division's Legal Branch.

During the meeting, U.S. Sugar's position on the relocation of incumbent SMRs from the upper block of two hundred (200) 800 MHz channels, as proposed by the Commission in PR Docket No. 93-144 and PP Docket No. 93-253 was discussed. U.S. Sugar outlined its recommendation that small incumbent SMRs should not be relocated without their consent, and if relocation to the "lower block" is to occur, it should only happen under a transition plan which guarantees that the relocated incumbent will be given comparable spectrum and comparable facilities at the relocated site. A further exposition of U.S. Sugar's position is provided in the enclosed attachment.

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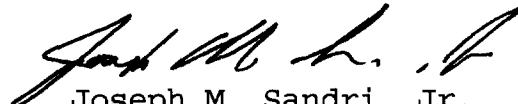
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William F. Caton, Secretary
September 29, 1995
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Two (2) copies of this notice are being filed for inclusion in the docket. Should any questions arise concerning this matter, please do not hesitate to contact the undersigned.

Very truly yours,



Joseph M. Sandri, Jr.
Counsel for U.S. Sugar

Enclosure

cc: Rosalind K. Allen
Dan Phythyon
D'Wanda Speight

U.S. Sugar Position on 800 MHz SMR (PR Docket No. 93-144, PP Docket No. 93-253)

U.S. Sugar Operates a Typical Small SMR System

U.S. Sugar operates a 21-channel Specialized Mobile Radio ("SMR") system with coverage limited to the Clewiston, Florida area. Fifteen of U.S. Sugar's channels are in the 800 MHz "upper block" of 200 channels. The system is used for internal communications to support general operations, including the dispatch of personnel, equipment and supplies required in the cane fields and citrus groves. Excess capacity on the SMR system is leased to public safety entities and businesses. Approximately 88 paying subscribers comprised of law enforcement agencies, agricultural businesses, and small trucking and construction companies used the system predominately for dispatch services, employing almost 800 of the system's approximately 1,350 mobile units.

No Reason Exists to Relocate Small Incumbent SMRs

The FCC seeks to treat wide-area SMRs in the same fashion as similar Commercial Mobile Radio Service ("CMRS") providers in order to meet a Congressional mandate that the FCC implement changes to its rules to establish regulatory symmetry among similar CMRS providers.^{1/} Importantly, Congress did not instruct the FCC to restrict the growth and viability of the small SMR industry in order to create regulatory parity between wide-area SMRs, cellular, PCS, and other CMRS providers. Further, the success of wide-area auctions does not hinge on the mandatory relocation of small SMRs to the lower block. Mandatory relocation of small SMR incumbents would harm the public interest by placing an undue burden on small SMRs through imposition of an imbalanced bargaining structure, the unwarranted disruption of services, potential equipment incompatibilities, and placement in less desirable spectrum with limited potential for future growth.

Relocation to the "Lower Block" Appears Unworkable

U.S. Sugar's operations are approximately 70 miles from West Palm Beach. The "lower block" channels in U.S. Sugar's operating area are extensively used. It is extremely unlikely that there is room in the lower block to accommodate relocation of U.S. Sugar's 15 upper block channel assignments. Additionally, U.S. Sugar is operating a sophisticated Motorola system which meets state-of-the-art public safety reliability standards and protocols. Because the lower block likely does not have enough channels available, it is difficult to imagine that any other suitable, comparable spectrum is available in which similarly sophisticated systems may be operated. For example, none of the 220 MHz equipment currently available is even remotely close to meeting the same public safety protocols, operating standards, and hand-held

^{1/} Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI § 6002(b), 107 Stat. 317, 392 (1993).

requirements as U.S. Sugar's current system. The simple conclusion is that U.S. Sugar's system probably cannot be relocated to comparable assignments.

If Relocation Must Occur, Provide Proper Protections

Should the FCC adopt a relocation policy, and assuming that comparable spectrum can be identified, incumbent licensees must be able to operate "dual" systems during the transition period, one in the upper block and one in the lower block. This would assist in minimizing the disruption that a relocation imposes on small SMRs and aid in a safe transition. Additionally, the relocation process should be structured in the same manner as the 2 GHz transition process outlined in Docket No. 92-9. Basic elements of that process include:

- Comparable Facilities: The new wide-area licensees must, at a minimum, provide the incumbents with comparable facilities and equipment and relocate them to comparable spectrum.
- Voluntary Negotiation Period: The FCC should adopt rules mandating a two year voluntary negotiation process between the incumbent and 800 MHz wide-area auction winner. During this period the parties should be encouraged to negotiate and reach agreement on relocation, but must not be required to do so. With the comparable facilities requirement as a minimum threshold, both parties are free to negotiate the terms of the relocation. The FCC should issue a public notice as to when the voluntary negotiation period will begin.
- Mandatory Negotiation Period: During this one year negotiation period, starting anytime after the two year voluntary negotiation period, the parties should be required to negotiate in good faith.